

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 17**  
FINAL READING  
(SECOND)

Introduced by Coordsen, 32; Schimek, 27; Chambers, 11; Jensen, 20

Read first time January 7, 1999

Committee: Health and Human Services

A BILL

- 1 FOR AN ACT relating to medical records; to provide for copies to
- 2 patients from health care providers as prescribed.
- 3 Be it enacted by the people of the State of Nebraska,

1           Section 1.     The Legislature finds that medical records  
2 contain personal and sensitive information that if improperly used  
3 or released may do significant harm to a patient's interests.  
4 Patients need access to their own medical records as a matter of  
5 fairness to enable them to make informed decisions about their  
6 health care and correct inaccurate or incomplete information about  
7 themselves.

8           Sec. 2.   For purposes of sections 1 to 7 of this act:

9           (1) Medical records means a provider's record of a  
10 patient's health history and treatment rendered;

11          (2) Mental health medical records means medical records  
12 or parts thereof created by or under the direction or supervision  
13 of a licensed psychiatrist, a licensed psychologist, or a mental  
14 health practitioner licensed or certified pursuant to sections  
15 71-1,295 to 71-1,338;

16          (3) Patient includes a patient or former patient;

17          (4) Patient request or request of a patient includes the  
18 request of a patient's guardian or other authorized representative;  
19 and

20          (5) Provider means a physician, psychologist,  
21 chiropractor, dentist, hospital, clinic, and any other licensed or  
22 certified health care practitioner or entity.

23          Sec. 3.   (1) A patient may request a copy of the  
24 patient's medical records or may request to examine such records.  
25 Access to such records shall be provided upon request pursuant to  
26 sections 1 to 7 of this act, except that mental health medical  
27 records may be withheld if any treating physician, psychologist, or  
28 mental health practitioner determines in his or her professional

1 opinion that release of the records would not be in the best  
2 interest of the patient unless the release is required by court  
3 order. The request and any authorization shall be in writing and  
4 shall be valid for one hundred eighty days after the date of  
5 execution by the patient.

6 (2) Upon receiving a written request for a copy of the  
7 patient's medical records under subsection (1) of this section, the  
8 provider shall furnish the person making the request a copy of such  
9 records not later than thirty days after the written request is  
10 received.

11 (3) Upon receiving a written request to examine the  
12 patient's medical records under subsection (1) of this section, the  
13 provider shall, as promptly as required under the circumstances but  
14 no later than ten days after receiving the request: (a) Make the  
15 medical records available for examination during regular business  
16 hours; (b) inform the patient if the records do not exist or cannot  
17 be found; (c) if the provider does not maintain the records, inform  
18 the patient of the name and address of the provider who maintains  
19 such records, if known; or (d) if unusual circumstances have  
20 delayed handling the request, inform the patient in writing of the  
21 reasons for the delay and the earliest date, not later than  
22 twenty-one days after receiving the request, when the records will  
23 be available for examination. The provider shall furnish a copy of  
24 medical records to the patient as provided in subsection (2) of  
25 this section if requested.

26 (4) This section does not require the retention of  
27 records or impose liability for the destruction of records in the  
28 ordinary course of business prior to receipt of a request made

1 under subsection (1) of this section. A provider shall not be  
2 required to disclose confidential information in any medical record  
3 concerning another patient or family member who has not consented  
4 to the release of the record.

5           Sec. 4. Except as provided in sections 5 and 7 of this  
6 act, for medical records provided under section 3 of this act or  
7 under subpoena by a patient or his or her authorized representative  
8 a provider may charge no more than twenty dollars as a handling fee  
9 and may charge no more than fifty cents per page as a copying fee.  
10 A provider may charge for the reasonable cost of all duplications  
11 of medical records which cannot routinely be copied or duplicated  
12 on a standard photocopy machine. A provider may charge an amount  
13 necessary to cover the cost of labor and materials for furnishing a  
14 copy of an X-ray or similar special medical record. If the  
15 provider does not have the ability to reproduce X-rays or other  
16 records requested, the person making the request may arrange, at  
17 his or her expense, for the reproduction of such records.

18           Sec. 5. (1) A provider shall not charge a fee for  
19 medical records requested by a patient for use in supporting an  
20 application for disability or other benefits or assistance or an  
21 appeal relating to the denial of such benefits or assistance under:

22           (a) Sections 43-501 to 43-536 regarding assistance for  
23 certain children;

24           (b) Sections 68-1018 to 68-1025 relating to the medical  
25 assistance program;

26           (c) Title II of the federal Social Security Act, as  
27 amended, 42 U.S.C. 401 et seq.;

28           (d) Title XVI of the federal Social Security Act, as

1 amended, 42 U.S.C. 1382 et seq.; or

2 (e) Title XVIII of the federal Social Security Act, as  
3 amended, 42 U.S.C. 1395 et seq.

4 (2) Unless otherwise provided by law, a provider may  
5 charge a fee as provided in section 4 of this act for the medical  
6 records of a patient requested by a state or federal agency in  
7 relation to the patient's application for benefits or assistance or  
8 an appeal relating to denial of such benefits or assistance under  
9 subsection (1) of this section.

10 (3) A request for medical records under this section  
11 shall include a statement or document from the department or agency  
12 that administers the issuance of the assistance or benefits which  
13 confirms the application or appeal.

14 Sec. 6. A provider who transfers or submits information  
15 in good faith to a patient's medical record shall not be liable in  
16 damages to the patient or any other person for the disclosure of  
17 such medical records as provided in sections 1 to 7 of this act.

18 Sec. 7. Sections 1 to 7 of this act do not apply to the  
19 release of medical records under the Nebraska Workers' Compensation  
20 Act.